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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,347	09/11/2003	Mike S. McElroy	23399.00	7092
37833	7590	03/20/2008	EXAMINER	
LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	
			MAIL DATE	DELIVERY MODE
			03/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/659,347	MCELROY, MIKE S.	
	Examiner	Art Unit	
	CHI Q. NGUYEN	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 December 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/11/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

This Office action is in response to applicant's amendment filed on 7/26/2007.

Status of Claims

Claims 1-11 have been cancelled.

Claims 12-17 are pending and have been examined.

Claim Rejections - 35 USC § 102

Claims 12-13 and 15 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6,216,395 to Kelly.

Claim 12:

Kelly discloses a threshold protective cover comprising an elongated section of door molding 10, a supplemental door trim 30, said supplemental door trim comprising an elongated, substantially rigid trim section, said trim section having a substantially L-shaped cross-section (see Fig. 5), said substantially L-shaped cross section formed with a base portion 34/35 and an elongated integral section 33, said base portion, having a lower base portion 34 and upper base portion 35, said elongated integral arm section 33 extending from the upper base portion 35 at substantially a right angle thereto, said integral arm section terminating in a free end, wherein said supplement door trim is installed over said elongated section of door molding and said integral arm section and free end overlay said door molding section (Fig. 2).

Claim 13:

Wherein the supplemental door trim 30 is made of wood (see col. 2, lines 48-49).

Claim 15:

Wherein the integral arm section 33 defines a flat face.

Claim Rejections - 35 USC § 103

Claims 14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6,216,395 to Kelly.

Claim 14:

Kelly discloses basic structures for a door threshold protective cover as stated and further including the integral arm section define a setback (wherein 12 points to in Fig. 2) from a door molding 10 but does not specifically disclose a setback of about 0.25" from said door molding. However, this feature would have been a matter of obvious design choice of ordinary skill in the art at the time the invention was made.

Furthermore, applicant has not disclosed the criticality of this feature.

Claims 16-17:

Kelly discloses basic structures for a door threshold protective cover as stated and further including the integral arm section defines a flat face (wherein 33 points to- see Fig. 2) and the cover is made out of wood (see col. 2, lines 48-49) but does not specifically disclose the integral arm section defines a variable face and the supplemental door trim is made out of medium density fiber board. However, this feature would have been a matter of obvious design choice of ordinary skill in the art at the time the invention was made to have a variable face and made out of medium fiber board for a decorative purpose and economic reasons. Furthermore, applicant has not disclosed the criticality of this feature.

Response to Arguments

Applicant's arguments filed 7/26/2007 have been fully considered but they are not persuasive.

Applicant argues the prior art discloses a door threshold and not a door molding and the threshold protector not a door trim. Examiner agrees with the applicant's argument for the terminology differences; however, the prior art discloses the similar structures and in the same art, e.g. door. Therefore the applicant's arguments are not persuasive.

Applicant argues the prior art does not disclose the setback of about 0.25" from the door molding. As set forth above, the prior art discloses the setback (see above rejections) but does not disclose specifically about 0.25"; this feature would have been a matter of obvious design choice for aesthetical purposes.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./
Examiner, Art Unit 3635

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633